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E.O. 12958: DECL: 04/17/2034  
TAGS: [MTCRE](#) [PREL](#) [MNUC](#) [KSCA](#) [ETTC](#) [TSPA](#)  
SUBJECT: HCOC - ENCOURAGING INDIA TO SUBSCRIBE TO THE HCOC

REF: A. 06 STATE 64555  
[1](#)B. 06 NEW DELHI 2787

Classified By: ISN/MTR DIRECTOR PAM DURHAM FOR REASONS  
1.4 (B), (D), AND (H).

#### SUMMARY -----

[1](#)1. (C) Summary: Department requests Embassy to encourage India to subscribe to the Hague Code of Conduct Against Ballistic Missile Proliferation (HCOC). This overture is consistent with India's positive efforts related to preventing the spread of ballistic missiles via harmonization and adherence to the Missile Technology Control Regime, and its 2006 indication that it would look at the HCOC after progress had been achieved in reaching a peaceful nuclear cooperation (123) agreement with the United States. Promptly subscribing to the HCOC would allow Indian officials to attend the Eighth Regular Meeting of the HCOC Subscribing States, to be held May 28-29 in Vienna. This would provide a good opportunity for India to help guide the future operation of the HCOC, and to discuss key HCOC implementation issues, particularly confidence-building measures. End Summary.

#### OBJECTIVES -----

[1](#)2. (U) Department requests Embassy New Delhi to pursue the following objectives:

- Approach appropriate senior-level host government officials at the earliest opportunity and urge them to subscribe to the HCOC. (Talking points which may be left as a nonpaper are at Para 7.)
- Provide GOI interlocutor(s) with HCOC text (Para 8), list of HCOC subscribing states (Para 9), and example of the Note Verbale (Para 10).

#### REPORTING DEADLINE -----

[1](#)3. (U) Embassy should report results of efforts by cable slugged for ISN/MTR with "HCOC" in the subject line before May 15, 2009.

#### BACKGROUND -----

[1](#)4. (C) The United States, last HCOC outreach to India was in April 2006 (Ref B), when Indian officials promised to take a look at the HCOC, but advised us that they were first hoping for progress on the U.S.-India Agreement for Cooperation Concerning Peaceful Uses of Nuclear Energy (123 Agreement). Although previous HCOC overtures to India have not yielded

positive results, and India abstained on a 2008 United Nations General Assembly resolution supporting the HCOC, we believe India may now be more open to considering subscribing given the conclusion of the 123 Agreement (entered into force December 6, 2008) and the steps taken by India to shore up its nonproliferation credentials to enable such cooperation. Among these steps were adhering to the Missile Technology Control Regime (MTCR) Guidelines and Annex and harmonizing its export control lists with the MTCR. India's agreement to take these steps indicates, inter alia, a commitment to preventing the spread of ballistic missiles and associated equipment and technology, as well as an acknowledgement of the dangers of ballistic missile proliferation - an acknowledgement that may now make the GOI more willing to consider HCOC subscription.

15. (SBU) The HCOC is aimed at bolstering efforts to curb ballistic missile proliferation worldwide, and to further delegitimize such proliferation, but does not require subscribing states to forego their own indigenous ballistic missile programs. The HCOC consists of a set of general principles, modest commitments, and limited confidence-building measures. It is intended to supplement, not supplant, the MTCR, and is administered collectively by all of the countries that subscribe to it. There is no formal secretariat or implementing organization, and thus we do not foresee any financial burden for most Subscribing States. As of April 1, 2009, 130 countries have subscribed to the HCOC (see para 7). The HCOC will hold its Eighth Regular Meeting on May 28-29, 2009 in Vienna.

16. (SBU) By subscribing to the HCOC, India will - like the United States and 129 other subscribing states - make a political commitment to "exercise maximum possible restraint in the development, testing and deployment of ballistic missiles capable of delivering weapons of mass destruction." Making such a commitment is consistent with support for the international nonproliferation regime and unilateral adherence to the MTCR. However, the United States - like other countries - understands this commitment as not limiting our right to take steps in these areas that are necessary to meeting national security requirements. This includes the ability to maintain a deterrent umbrella for our friends and allies, and the capabilities necessary to defeat weapons of mass destruction. We therefore believe that subscribing to the HCOC would not impose any costs on the security of India or any other country, just as it imposes no costs on the United States.

17. Begin text of talking points/non-paper:

(CONFIDENTIAL//REL INDIA)

-- The United States urges India to join us and 129 other countries to actively support international missile nonproliferation efforts by subscribing to the Hague Code of Conduct Against Ballistic Missile Proliferation (HCOC).

-- We have approached your government previously concerning the HCOC because the U.S. and the other 129 Subscribing States view the HCOC as an important and meaningful way to help curb the proliferation of ballistic missiles capable of delivering weapons of mass destruction (WMD) - proliferation declared by the UN Security Council in Resolution 1540 to represent a threat to international peace and security.

-- When we last discussed the HCOC with your government - in April 2006 - Indian officials advised us that they were open to the possibility of subscribing to the HCOC, but that they first wanted to see progress on the

U.S.-India Agreement for Cooperation Concerning  
Peaceful Uses of Nuclear Energy (123 Agreement).

-- Since that time, the 123 Agreement has been signed by our respective leadership and, as of December 6, has entered into force.

-- In concluding this agreement, we acknowledged the positive steps taken by India on nonproliferation matters.

-- Among these steps were adhering to the Missile Technology Control Regime (MTCR) Guidelines and Annex and harmonizing India's export control lists with the MTCR.

-- India's agreement to take these steps indicates, inter alia, a commitment to preventing the spread of ballistic missiles and associated equipment and technology, as well as an acknowledgment of the dangers of ballistic missile proliferation.

-- We believe that India, as a possessor of ballistic missiles, can further this commitment to international missile nonproliferation efforts by subscribing to the HCOC.

--Taking such a step will allow India to make a further contribution to international efforts aimed at addressing the global missile threat.

-- We hope you consider this matter seriously and act promptly to subscribe.

-- Promptly subscribing to the HCOC would allow Indian officials to attend the Eighth Regular Meeting of the HCOC Subscribing States, to be held May 28-29 in Vienna. This would provide a good opportunity for India to help guide the future operation of the HCOC, and to discuss key HCOC implementation issues, particularly confidence-building measures.

-- India can subscribe by simply sending a Note Verbal to the Government of Austria (HCOC@bmeia.gv.at), which is the Executive Secretary of the HCOC. (Hand over example note at para 10.)

END TEXT OF TALKING POINTS

18. (U) The government of the Netherlands distributed the HCOC text to all countries invited to the November 2002 Launching Conference. The text is repeated below.

Begin text of HCOC:

International Code of Conduct against Ballistic Missile Proliferation

Preamble

The Subscribing States:

Reaffirming their commitment to the United Nations Charter;

Stressing the role and responsibility of the United Nations in the field of international peace and security;

Recalling the widespread concern about the proliferation of weapons of mass destruction and their means of delivery;

Recognizing the increasing regional and global security challenges caused, inter alia, by the ongoing

proliferation of Ballistic Missile systems capable of delivering weapons of mass destruction;

Seeking to promote the security of all states by fostering mutual trust through the implementation of political and diplomatic measures;

Having taken into account regional and national security considerations;

Believing that an International Code of Conduct against Ballistic Missile Proliferation will contribute to the process of strengthening existing national and international security arrangements and disarmament and non-proliferation objectives and mechanisms;

Recognising that Subscribing States may wish to consider engaging in co-operative measures among themselves to this end;

11. Adopt this International Code of Conduct against Ballistic Missile Proliferation (hereinafter referred to as 'the Code');

12. Resolve to respect the following Principles:

a) Recognition of the need comprehensively to prevent and curb the proliferation of Ballistic Missile systems capable of delivering weapons of mass destruction and the need to continue pursuing appropriate international endeavors, including the Code;

b) Recognition of the importance of strengthening, and gaining wider adherence to, multilateral disarmament and non-proliferation mechanisms;

c) Recognition that adherence to, and full compliance with, international arms control, disarmament and non-proliferation norms help build confidence as to the peaceful intentions of states;

d) Recognition that participation in this Code is voluntary and open to all states;

e) Confirmation of their commitment to the United Nations Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States taking into particular Account the Needs of Developing Countries, adopted by the United Nations General Assembly (Resolution 51/122 of 13 December 1996);

f) Recognition that states should not be excluded from utilising the benefits of space for peaceful purposes, but that, in reaping such benefits and in conducting related cooperation, they must not contribute to the proliferation of Ballistic Missiles capable of delivering weapons of mass destruction;

g) Recognition that Space Launch Vehicle programmes should not be used to conceal Ballistic Missile programmes;

h) Recognition of the necessity of appropriate transparency measures on Ballistic Missile programmes and Space Launch Vehicle programmes in order to increase confidence and to promote non-proliferation of Ballistic Missiles and Ballistic Missile technology;

13. Resolve to implement the following General Measures:

a) To ratify, accede to or otherwise abide by:  
- the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies (1967),  
- the Convention on International Liability for Damage

Caused by Space Objects (1972),  
- the Convention on Registration of Objects Launched  
into Outer Space (1975);

b) To curb and prevent the proliferation of  
Ballistic Missiles capable of delivering weapons of  
mass destruction, both at a global and regional level,  
through multilateral, bilateral and national  
endeavours;

c) To exercise maximum possible restraint in the  
development, testing and deployment of Ballistic  
Missiles capable of delivering weapons of mass  
destruction, including, where possible, to reduce  
national holdings of such missiles, in the interest of  
global and regional peace and security;

d) To exercise the necessary vigilance in the  
consideration of assistance to Space Launch Vehicle  
programmes in any other country so as to prevent  
contributing to delivery systems for weapons of mass  
destruction, considering that such programmes may be  
used to conceal Ballistic Missile programmes;

e) Not to contribute to, support or assist any  
Ballistic Missile programme in countries which might be  
developing or acquiring weapons of mass destruction in  
contravention of norms established by, and of those  
countries, obligations under, international disarmament  
and non-proliferation treaties;

14. Resolve to implement the following:

a) Transparency measures as follows, with an  
appropriate and sufficient degree of detail to increase  
confidence and to promote non-proliferation of  
Ballistic Missiles capable of delivering weapons of  
mass destruction:

i) With respect to Ballistic Missile programmes to:  
- make an annual declaration providing an outline of  
their Ballistic Missile policies. Examples of openness  
in such declarations might be relevant information on  
Ballistic Missiles systems and land (test-) launch  
sites;  
- provide annual information on the number and generic  
class of Ballistic Missiles launched during the  
preceding year, as declared in conformity with the pre-  
launch notification mechanism referred to hereunder, in  
tires iii);

ii) with respect to expendable Space Launch Vehicle  
programmes, and consistent with commercial and economic  
confidentiality principles, to:  
- make an annual declaration providing an outline of  
their Space Launch Vehicle policies and land (test-)  
launch sites;  
- provide annual information on the number and generic  
class of Space Launch Vehicles launched during the  
preceding year, as declared in conformity with the pre-  
launch notification mechanism referred to hereunder, in  
tires iii);  
- consider, on a voluntary basis (including on the  
degree of access permitted), inviting international  
observers to their land (test-) launch sites;

iii) with respect to their Ballistic Missile and Space  
Launch Vehicle programmes to:  
- exchange pre-launch notifications on their Ballistic  
Missile and Space Launch Vehicle launches and test  
flights. These notifications should include such  
information as the generic class of the Ballistic  
Missile or Space Launch Vehicle, the planned launch  
notification window, the launch and the planned  
direction;

b) Subscribing States could, as appropriate and on a  
voluntary basis, develop bilateral or regional

transparency measures, in addition to those above.

c) Implementation of the above confidence building measures does not serve as justification for the programmes to which these confidence building measures apply;

#### 15. Organisational aspects

Subscribing States determine to:

a) Hold regular meetings, annually or as otherwise agreed by Subscribing States;

b) Take all decisions, both substantive and procedural, by a consensus of the Subscribing States present;

c) Use these meetings to define, review and further develop the workings of the Code, including in such ways as:

- establishing procedures regarding the exchange of notifications and other information in the framework of the Code;
- establishing an appropriate mechanism for the voluntary resolution of questions arising from national declarations, and/or questions pertaining to Ballistic Missile and/or Space Launch Vehicle programmes;
- naming of a subscribing state to serve as an immediate central contact for collecting and disseminating Confidence Building Measures submissions, receiving and announcing the subscription of additional States, and other tasks as agreed by Subscribing States; and
- others as may be agreed by the Subscribing States, including possible amendments to the Code.

#### 19. (U) List of Subscribing States as of April 1, 2009.

1. Afghanistan
2. Andorra
3. Albania
4. Argentina
5. Armenia
6. Australia
7. Austria
8. Azerbaijan
9. Belarus
10. Belgium
11. Benin
12. Bosnia and Herzegovina
13. Bulgaria
14. Burkina Faso
15. Burundi
16. Cameroon
17. Cambodia
18. Canada
19. Cape Verde
20. Chad
21. Chile
22. Colombia
23. Comoros
24. Cook Islands
25. Costa Rica
26. Croatia
27. Cyprus
28. Czech Republic
29. Denmark
30. Dominican Republic
31. Ecuador
32. El Salvador
33. Eritrea
34. Estonia
35. Ethiopia
36. Fiji
37. Finland

138. France  
139. Gabon  
140. Gambia  
141. Georgia  
142. Germany  
143. Ghana  
144. Greece  
145. Guatemala  
146. Guinea  
147. Guinea-Bissau  
148. Guyana  
149. Haiti  
150. Holy See  
151. Honduras  
152. Hungary  
153. Iceland  
154. Ireland  
155. Italy  
156. Japan  
157. Jordan  
158. Kazakhstan  
159. Kenya  
160. Kiribati  
161. Latvia  
162. Liberia  
163. Libyan Arab Jamahiriya  
164. Liechtenstein  
165. Lithuania  
166. Luxembourg  
167. Madagascar  
168. Malawi  
169. Maldives  
170. Mali  
171. Malta  
172. Marshall Islands  
173. Mauritania  
174. Micronesia  
(Federated States of)  
175. Monaco  
176. Mongolia  
177. Montenegro  
178. Morocco  
179. Mozambique  
180. Netherlands  
181. New Zealand  
182. Nicaragua  
183. Niger  
184. Nigeria  
185. Norway  
186. Palau  
187. Panama  
188. Papua New Guinea  
189. Paraguay  
190. Peru  
191. Philippines  
192. Poland  
193. Portugal  
194. Republic of Korea  
195. Republic of Macedonia  
196. Republic of Moldova  
197. Romania  
198. Russian Federation  
199. Rwanda  
100. Samoa  
101. San Marino  
102. Senegal  
103. Serbia  
104. Seychelles  
105. Sierra Leone  
106. Slovakia  
107. Slovenia  
108. South Africa  
109. Spain  
110. Sudan  
111. Suriname  
112. Sweden  
113. Switzerland  
114. Tanzania



- ¶115. Tajikistan
- ¶116. Timor-Leste
- ¶117. Tonga
- ¶118. Tunisia
- ¶119. Turkey
- ¶120. Turkmenistan
- ¶121. Tuvalu
- ¶122. Uganda
- ¶123. Ukraine
- ¶124. United Kingdom
- ¶125. United States
- ¶126. Uruguay
- ¶127. Uzbekistan
- ¶128. Vanuatu
- ¶129. Venezuela
- ¶130. Zambia

¶10. (SBU) Begin text of example Note Verbale:

The Ministry of Foreign Affairs of (country) presents its compliments to the Ministry of Foreign Affairs of the Government of Austria and has the honour to inform the Republic of Austria that (country) wishes to become a subscribing state to the Hague Code of Conduct against Ballistic Missile Proliferation, which was adopted at an international launching conference held at The Hague on 25 and 26 November 2002, and that it wishes (country) to be included in the list of Subscribing States that will serve as an annex to the aforementioned Code of Conduct.

Done at (capital)

Date

Seal

POINT OF CONTACT

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¶11. Department appreciates post's help in this matter. Washington POCs are John Paul Herrmann (202-647-1430 - herrmannjp@state.sgov.gov) and Sarah Ayers (202 647-1142 - AyersSL@state.sgov.gov). Please slug any reporting on this issue for ISN/MTR.  
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